

ORDINANCE NO. 1862

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADDING SECTION 1500 (BOUNDARY CHANGES) TO THE MILWAUKIE ZONING ORDINANCE, IN ORDER TO IMPLEMENT THE REQUIREMENTS AND PROCEDURES FOR BOUNDARY CHANGES AFFECTING THE CITY OF MILWAUKIE, PURSUANT TO CHAPTER 3.09 OF THE METRO CODE. (FILE #ZA-99-01).

WHEREAS, as of January 1, 1999, the Portland Metropolitan Area Boundary Commission was disbanded and no longer responsible for decisions on boundary change proposals; and

WHEREAS, pursuant to ORS Chapter 222, the City of Milwaukie is responsible for processing boundary change proposals; and

WHEREAS, pursuant to ORS 268.354, the Metro Council has adopted minimum standards for local jurisdiction processing of boundary change proposals; and

WHEREAS, consistent with the language of Metro Chapter 3.09, the City Council finds that certain requirements and procedures must be implemented;

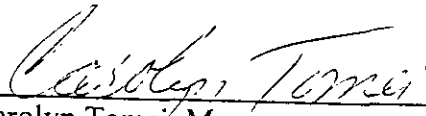
NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Zoning Ordinance Text Amendment. The Zoning Ordinance text of Ordinance Number 1712 is amended by adding a new Section 1500, BOUNDARY CHANGES, as shown in Exhibit A.

Read the first time on 10/5/99 and moved to second reading by 5-0 vote of the City Council.

Read the second time and adopted by the City Council on October 5, 1999.


Signed by the Mayor on October 5, 1999


Carolyn Tomei, Mayor

ATTEST:

APPROVED AS TO FORM:
Ramis, Crew, Corrigan & Bachrach, LLP


Pat DuVal, City Recorder


City Attorney

SECTION 1500 BOUNDARY CHANGES

1501 PURPOSE

The purpose of this Section is to carry out the provisions of ORS 268.354 and Metro Code Chapter 3.09. This Section provides standards and procedures for all boundary change proposals, including annexation proposals. For the purpose of this Section, the term "boundary change" includes the formation, merger, consolidation, or dissolution of a city or district; annexation or withdrawal of territory to or from a city or district or from a city-county to a city; or an extraterritorial extension of water or sewer service by a city or district.

1502 ANNEXATIONS

1502.1 Administration and approval process

- A. Annexation petitions shall include a request for Comprehensive Plan and zoning designations, and shall be reviewed by the Planning Commission and the City Council in accordance with subsection 1011.4, Major Quasi-Judicial review. The Council decision on the proposal shall be considered the "final decision," for purposes of compliance with Metro Code Chapter 3.09.
- B. Notice of the Planning Commission and Council hearings to consider annexation proposals shall follow the procedures of subsection 1011.4, Major Quasi-Judicial review, as well as the uniform notice requirements provided in Metro Code Section 3.09.030.
- C. A staff report shall be issued at least 15 days prior to the hearing, pursuant to the requirements of Metro Code Section 3.09.050(b).
- D. The final decision shall be made by the Council, by ordinance, after a public hearing. The decision shall be reduced to writing and shall include findings, conclusions, and conditions, if necessary; based on compliance with subsection 1502.3, other implementing ordinances, and the uniform hearing and decision requirements of Metro Code Section 3.09.050.

1502.2 The petition

- A. A petition to annex to the City of Milwaukie will only be accepted for sites located within the City of Milwaukie Urban Growth Boundary. A petition to annex may be initiated by a property owner(s) of the area to be annexed or the City, as listed below:

- 1. By consent of all owners of land, ORS 222.125.

When all the owners of land in the territory to be annexed and not less than 50 percent of the electors, if any, residing in the territory to be annexed

consent in writing to the annexation of their land in the territory and file a statement of their consent with the City.

2. By triple-majority consent petition, ORS 222.170(1).

ORS 222.170(1) allows annexation when a majority of the landowners in the territory to be annexed consent in writing with the City. The land owned by the consenting landowners must total over half the area of the land in the territory to be annexed and must have an assessed value totaling more than half of the assessed value of the land in the territory to be annexed.

3. By double-majority consent petition, ORS 222.170(2).

When a majority of the electors registered in the territory proposed to be annexed consent in writing to the annexation, and the owners of more than half of the land in that territory consent in writing to the annexation of their land in the territory and file a statement of their consent with the City.

4. By the City Council on its own motion, pursuant to ORS 222.111(2) or the "island" annexation statute, ORS 222.750.

5. Pursuant to the health hazard annexation process, ORS 222.840 to 222.915.

B. A prerequisite to the filing of an annexation petition is a preapplication conference, at which time the Planning Director shall explain the requirements and provide the appropriate forms.

C. An annexation petition shall include the completed petition form and 13 copies of each of the following, except for each drawing submitted there shall be 12 at the original scale and 1 copy reduced to an 8½" x 11" paper size.

1. The minimum petition requirements of Metro Code Section 3.09.040.
2. A narrative that addresses the approval criteria set forth in subsection 1502.3 and Metro Code Sections 3.09.050(d) and, if applicable, (e).
3. Vicinity, legal, and other descriptive maps necessary to show compliance with subsection 1502.3 and Metro Code Section 3.09.040. This shall include 2 County Assessor's quarter section maps on which the territory to be annexed has been outlined in red.
4. Metes and bounds legal description for the area to be annexed, including road right-of-way where appropriate. Lot and block legal description may be used if the territory includes only platted area and does not include any street right-of-ways.

D. The applicant shall pay the requisite fee. The fee for an annexation shall be established by resolution of the Council.

1502.3 Approval criteria

The City Council shall approve or deny an annexation proposal based on findings and conclusions addressing the following criteria:

- A. The subject site must be located within the City of Milwaukie Urban Growth Boundary;
- B. The subject site must be contiguous to the existing City limits;
- C. The requirements of the Oregon Revised Statutes for initiation of the annexation process must be met;
- D. The proposal must be consistent with Milwaukie Comprehensive Plan Policies; and
- E. The proposal must comply with the criteria of Metro Code Sections 3.09.050(d) and, if applicable, (e).

1503 OTHER BOUNDARY CHANGES

1503.1 Administration and approval process

- A. A petition for any type of boundary change, other than annexation, shall be processed as provided by state law and Metro Code Chapter 3.09.
- B. Boundary change proposals shall be considered only by the City Council. The Council decision on the proposal shall be considered the "final decision" for purposes of compliance with Metro Code Chapter 3.09.
- C. Notice of the Council hearing to consider boundary change proposals shall follow the uniform notice requirements provided in Metro Code Section 3.09.030.
- D. A staff report shall be issued at least 15 days prior to the hearing, pursuant to the requirements of Metro Code Section 3.09.050(b).
- E. The final decision shall be made by the Council after a public hearing. The decision shall be reduced to writing and shall follow the uniform hearing requirements of Metro Code Section 3.09.050.

1503.2 The petition

- A. A prerequisite to the filing of a boundary change petition is a preapplication conference, at which time the Planning Director shall explain the requirements and provide the appropriate forms.
- B. A boundary change petition shall include the completed petition form and 13 copies of each of the following, except for each drawing submitted there shall be 12 at the original scale and 1 copy reduced to an 8½" x 11" paper size.

1. The minimum petition requirements of Metro Code Section 3.09.040.
 2. A narrative that addresses the approval criteria set forth in subsection 1503.3.
 3. Vicinity, legal, and other descriptive maps necessary to show compliance with Metro Code Section 3.09.040. This shall include 2 County Assessor's quarter section maps on which the territory to be annexed has been outlined in red.
 4. Metes and bounds legal description for the area located within the proposed boundary change, including road right-of-way where appropriate. Lot and block legal description may be used if the territory includes only platted area and does not include any street right-of-ways.
- C. The applicant shall pay the requisite fee. The fee for a boundary change shall be established by resolution of the Council.

1503.3 Approval criteria

The City Council shall approve or deny a boundary change proposal, other than annexations, based on findings and conclusions addressing the following criteria:

- A. The proposal complies with the criteria of Metro Code Section 3.09.050(d) and, if applicable, (e).

1504 EXPEDITED PROCESS

1504.1 Administration and approval process

- A. A petition for any type of minor boundary change may be processed through an expedited process as provided by Metro Code Chapter 3.09.
1. Initiation of an expedited boundary change petition must follow the requirements of Metro Code Section 3.09.045(a).
 2. A prerequisite to the filing of an expedited boundary change petition is a preapplication conference, at which time the Planning Director shall explain the requirements and provide the appropriate forms.
 3. An expedited boundary change petition shall include the materials required by subsection 1502.2.C for annexations and subsection 1503.2.B for other boundary changes.
 4. The applicant shall pay the requisite fee. The fee for an expedited boundary change shall be established by resolution of the Council.
 5. Approval criteria for annexations are found in subsection 1502.3 and for other boundary changes in subsection 1503.3.

- B. Notwithstanding Section 206, an expedited boundary change proposal shall be considered by the City Council without a public hearing. The Council decision on the proposal shall be considered the "final decision" for purposes of compliance with Metro Code Chapter 3.09. If the petition is for annexation, the decision shall be by ordinance.
- C. Notice of petition for an expedited process must be provided to interested persons a minimum of 20 days prior to the final decision and shall follow the expedited notice requirements provided in Metro Code Section 3.09.045(b) and ORS 198 and 222. For purposes of this subsection, "interested persons" include the Planning Commission, those residing or owning property within 400 feet of the territory to be annexed, necessary parties as defined in Metro Code Section 3.09.02(j), and any persons who have requested notice.
- D. A brief report shall be issued at least 7 days prior to the date of decision, pursuant to the requirements of Metro Code Section 3.09.045(c).
- E. The City zoning and Comprehensive Plan designation for an expedited annexation request shall be automatically applied based on the existing Clackamas County zoning designation in accordance with Table 1, provided below:

Table 1 Zoning & Land Use Designations for Boundary Changes		
County Zoning Designation	Assigned City Zoning Designation	Assigned Comprehensive Plan Land Use Designation
R-20	R-10	Low Density Residential
R-15	R-10	Low Density Residential
R-10	R-10	Low Density Residential
R-8.5	R-7	Low Density Residential
R-7	R-7	Low Density Residential
MR1	R-5	Moderate Density Residential
MR2	R-2	Medium Density Residential
PMD	R-1-B	High Density Residential
HDR	R-1-B	High Density Residential
SHD	R-1	High Density Residential
C2	R-O-C	Commercial/High Density Use
C3	C-G	Commercial
OC	C-L	Commercial
RTL	C-C	Commercial
PC	C-CS	Commercial
I2	M	Industrial

I3	M	Industrial
BP	BI	Industrial
OSM	R-10/CSO	Public

- F. An expedited process cannot be used if a necessary party gives written notice to contest the decision, pursuant to Metro Code Section 3.09.045(b) or, in the case of an annexation petition, if the requested zoning designation does not comply with the automatic Comprehensive Plan designation listed above.

1505 APPEALS

The City Council decision on an annexation or other boundary change may be appealed by a necessary party to the Metro Boundary Appeals Commission, pursuant to the provisions of Metro Code Section 3.09.070. An appeal by any other person will be processed according to state law.

